

CALDARELLI HEJMANOWSKI PAGE & LEER LLP

William J. Caldarelli (SBN #149573)

Ben West (SBN #251018)

12340 El Camino Real, Suite 430

San Diego, CA 92130

Telephone: (858) 720-8080

wjc@chpllaw.com; dbw@chpllaw.com

Attorneys for Plaintiff Ameranth, Inc.

Additional counsel for Plaintiff listed below.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: AMERANTH PATENT
LITIGATION

Lead Case No. 11-cv-1810 DMS (WVG)

**PLAINTIFF AMERANTH'S AND
DEFENDANT GRUBHUB'S JOINT
MOTION TO EXTEND TIME FOR
EXPERT DEPOSITIONS**

Complaint Filed: August 15, 2011

1 **Additional counsel for Plaintiff Ameranth, Inc.:**

2 **FABIANO LAW FIRM, P.C.**

3 Michael D. Fabiano (SBN #167058)
4 12526 High Bluff Drive, Suite 300
5 San Diego, CA 92130
6 Telephone: (619) 742-9631
7 mdfabiano@fabianolawfirm.com

8 **OSBORNE LAW LLC**

9 John W. Osborne (Appointed *Pro Hac Vice*)
10 33 Habitat Lane
11 Cortlandt Manor, NY 10567
12 Telephone: (914) 714-5936
13 josborne@osborneipl.com

14 **WATTS LAW OFFICES**

15 Ethan M. Watts (SBN #234441)
16 12340 El Camino Real, Suite 430
17 San Diego, CA 92130
18 Telephone: (858) 509-0808
19 Facsimile: (619) 878-5784
20 emw@ewattslaw.com

21 **WITKOW BASKIN**

22 Brandon Witkow (SBN 210443)
23 21031 Ventura Blvd., Suite 603
24 Woodland Hills, CA 91364
25 Tel: (818)296-9508
26 Fax: (818)296-9510
27 bw@witkowlaw.com
28

1 Plaintiff Ameranth, Inc. (“Ameranth”) and defendant GrubHub Holdings
 2 Inc. (f/k/a GrubHub, Inc. and f/k/a Seamless North America, LLC) (“GrubHub”)
 3 jointly move the Court for a short extension of time, by one business day, to
 4 September 17, 2018 for Ameranth and GrubHub to file dispositive motions,
 5 including those addressing Daubert issues. Ameranth and GrubHub jointly move
 6 the Court for an extension of time for expert and third-party discovery to
 7 September 17, 2018 and for a short extension on the deadline to serve expert
 8 rebuttal reports to August 25, 2018.

9 The current deadlines under the Court’s Orders, which are the subject of
 10 this Joint Motion, are the following:

- 11 1. Rebuttal expert reports served no later than August 22, 2018.
- 12 2. Expert and third-party discovery deadline August 31, 2018.
- 13 3. Dispositive motions filing deadline September 14, 2018.

14 (Dkt. No. 1257.)

15 The parties have met and conferred and request a further extension of these
 16 deadlines. The extension requested on the dispositive motion deadline amounts
 17 to only extending the deadline by one business day. Given the deadlines to serve
 18 expert reports, the number of expert depositions to be scheduled (four different
 19 food ordering defendants each scheduling depositions for Ameranth’s validity,
 20 infringement and damages experts and, with respect to GrubHub, Ameranth
 21 scheduling the depositions of four GrubHub experts), scheduling of multiple
 22 food ordering defendant depositions of Ameranth’s experts in August and the
 23 availability of some of Ameranth’s and GrubHub’s experts for deposition, the
 24 schedule the parties were able to arrive at through meet and confer for expert
 25 depositions includes scheduling one of Ameranth’s expert’s depositions in
 26 September and GrubHub’s experts’ depositions in September, with one expert
 27 deposition on September 13, 2018. Thus, the requested extension of the
 28 dispositive motion deadline and expert discovery will allow the parties to

1 conclude expert depositions by September 13, 2018 and obtain deposition
 2 transcripts on an expedited basis for possible inclusion in motions to be filed on
 3 the requested extended motion filing deadline of September 17, 2018.

4 Thus, in order to accommodate the parties' experts' availability and for
 5 the other considerations described above, Ameranth and GrubHub stipulate,
 6 agree, and jointly move as follows:

7 Ameranth shall provide to GrubHub, and GrubHub shall provide to
 8 Ameranth, rebuttal expert reports by no later than August 25, 2018. The expert
 9 and third-party discovery deadline between Ameranth and GrubHub is
 10 September 17, 2018, and the dispositive motion deadline between Ameranth and
 11 GrubHub is September 17, 2018.

12 The parties to this joint motion stipulate and agree to the foregoing, and
 13 jointly move that the Court enter the accompanying proposed Order, and further
 14 stipulate and agree that this joint motion is not made for any improper purpose.

15 Respectfully submitted,

16 Dated: August 22, 2018 CALDARELLI HEJMANOWSKI PAGE & LEER LLP

17
 18 By: /s/ William J. Caldarelli

19 William J. Caldarelli

20 Attorneys for Ameranth, Inc.

21 Dated: August 22, 2018 BAKER BOTTS L.L.P.

22
 23 By: /s/ Eric J. Faragi

24 Eric J. Faragi

25 Attorneys for GrubHub Holdings Inc.

26 f/k/a GrubHub, Inc. and

27 f/k/a Seamless North America, LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2018, I electronically transmitted the foregoing document to defendants' counsel of record via the court's CM/ECF electronic filing system.

By: /s/ William J. Caldarelli
William J. Caldarelli
wjc@chpllaw.com